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The Non-Proliferation of Nuclear Weapons within the Framework of the Npt: Limits and Possibilities

Introduction

States have long been trying to reduce their security risks through instruments of international law. Agreements and treaties about nuclear disarmament and non-proliferation were first signed during the Cold War, when the idea spread that the proliferation of weapons of mass destruction represents a great threat to international peace and security.¹

There is no global authority controlling nuclear non-proliferation and disarmament efforts, rather there are numerous international treaties, organizations and bodies that deal with and fight against the spread of nuclear weapons, or aim to reduce the already existing stocks. Among these treaties we can find both bilateral treaties, like the SALT agreements, and multilateral ones, like the Treaty on the Non-Proliferation of Nuclear Weapons, the Partial Nuclear Test-Ban Treaty, or the Comprehensive Nuclear Test-Ban Treaty. We can also differentiate between global and regional agreements. The international organizations dealing with nuclear issues can also be categorized as either global, like the International Atomic Energy Agency, or regional, like the organizations set up by nuclear-weapon-free zone agreements.

It is apparent that the international nuclear non-proliferation and disarmament system is quite extensive and complex, however, one treaty is considered to be the cornerstone of nuclear non-proliferation: the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter: the NPT). This paper will examine the NPT and its main provisions, usually referred to as the pillars of the treaty. The aim of the paper is to highlight the limits of the NPT: the barriers that prevent the treaty from becoming truly global and from reaching complete nuclear non-proliferation and disarmament.

¹ GRAHAM, THOMAS JR.: *International Law and the Proliferation of Nuclear Weapons*. The George Washington International Law Review (33) 2000. p. 50.

1. The three pillars of the Treaty on the Non-Proliferation of Nuclear Weapons

The Nuclear Non-Proliferation Treaty was signed in 1968 and entered into force on 5 March 1970. It is considered the most important global treaty in the field of nuclear non-proliferation. The treaty is based on three interlocking pillars: nuclear non-proliferation, nuclear disarmament and the peaceful use of nuclear energy. What are States parties obliged to do under the treaty?

The first two articles of the treaty highlight the idea of non-proliferation. According to Article I, the signatories, who already own nuclear weapons, agree not to transfer nuclear weapons, nuclear explosive devices or the control over such weapons or devices to non-nuclear weapon states and do not help these states in any way (directly or indirectly) in acquiring or having control over such weapons or explosive devices. They cannot assist, induce or encourage these states in the aforementioned actions either.² Simultaneously, according to Article II, states undertake not to receive nuclear weapons, nuclear explosive devices or control over such weapons or devices, and not to create or in any way acquire such weapons. Non-nuclear weapon states cannot receive assistance either in reaching the abovementioned goals.³

The non-proliferation pillar is further assisted by Article III of the NPT, according to which non-nuclear weapon States parties undertake to accept safeguards with the International Atomic Energy Agency (hereinafter: IAEA) for the purpose of verification of the fulfillment of their obligations in relation to the NPT. The reason why these safeguards are important is because there are more than 430 reactors around the globe, while 67 are under construction.⁴ Even though not all of these reactors are capable of manufacturing a nuclear weapon, many of them are which makes maintaining high security and safety standards in these nuclear reactors crucial. The responsibility for this lies within the hands of the government of the state on the territory of which the reactor is standing. Security is also important in these establishments, because some of them are situated in conflict ridden areas.⁵

The second pillar of the NPT is nuclear disarmament, which is laid down in Article VI of the treaty. Pursuant to this article, all parties to the treaty accept to participate in negotiations in good faith to reach the cessation of the nuclear arms race and nuclear disarmament, under strict and effective international control.⁶ States parties also undertake to negotiate a treaty on general and complete disarmament, which can be considered a promise towards the complete disarmament of nuclear weapons. This treaty, however, has not been negotiated yet, therefore the complete disarmament mentioned in Article VI is only a dream so far. The NPT does not give a clear deadline when this

² *Treaty on the Non-Proliferation of Nuclear Weapons*. (hereinafter: NPT) New York, 1968. 729 U.N.T.S. 161. Article I.

³ NPT Article II.

⁴ *Number of nuclear reactors operable and under construction*. World Nuclear Association. <http://www.world-nuclear.org/Nuclear-Basics/Global-number-of-nuclear-reactors/> (18 June 2013)

⁵ JOYNER, CHRISTOPHER C., PARKHOUSE, ALEXANDER IAN: *Nuclear Terrorism in a Globalizing World: Assessing the Threat and the Emerging Management Regime*. Stanford Journal of International Law (45) 2009. p. 217.

⁶ NPT Article VI.

treaty or when complete disarmament should be reached, it only mentions that the cessation of the nuclear arms race should be reached „at an early date”.⁷ States parties are therefore left with no clear guidelines on the deadline of their commitments. According to nuclear weapon states, humanity has already set foot on the road towards complete nuclear disarmament with bilateral disarmament agreements, which have obliged states to reduce their nuclear arsenals. The effectiveness of these steps is questioned by non-nuclear weapon states, who believe that disarmament initiatives are moving ahead quite slowly. If we take into consideration the fact that the NPT came into force in 1970, and complete nuclear disarmament still does not seem close or even achievable in the upcoming years, even though more than 40 years have passed, we can agree with non-nuclear weapon states.

Why are these two pillars so important? During the Cold War, an extensive nuclear proliferation took place in the world, during which a vast number of nuclear weapons was accumulated. Even though the number of nuclear weapon states did not rise to the predicted level, the amount of nuclear arms worldwide increased significantly. Since this amount has increased, the global quantity of nuclear weapons is still a threat to the international community, even if the number of nuclear weapon states remains under ten. At the beginning of the 1980s, the amount of nuclear warheads accumulated globally (50-60 thousand warheads) would have been enough to destroy the world multiple times. The amount of nuclear explosives in the world could have substituted 3 tons of traditional explosives per person on the globe.⁸ Even though the exact numbers are unknown, currently, at least an estimated 17,000 nuclear warheads exist worldwide, most of which can be found in the Russian Federation and the United States of America.⁹ The pure amount of nuclear weapons existing in the world is enough to serve as a motivation to start nuclear non-proliferation and disarmament.

The third pillar of the NPT is the peaceful use of nuclear energy, which is an inalienable right of States parties. According to Article IV of the treaty, the peaceful use of nuclear energy covers the research, production and use of nuclear energy for peaceful purposes, however, these activities must be in line with Articles I and II of the NPT.¹⁰ The treaty also permits the exchange of equipment, materials, and information, when it comes to the peaceful use of nuclear energy. Consequently, the NPT is based on a consensus between States parties, according to which acquiring or constructing a nuclear weapon is prohibited, however, in return, the peaceful use of nuclear energy is allowed. There is basically a bargain between nuclear weapon and non-nuclear weapon states: states not owning nuclear weapons agree to non-proliferation in exchange for complete nuclear disarmament in the long run.

⁷ NPT Article VI.

⁸ BOGNÁR KÁROLY: *Biztonság a nukleáris korban*. Budapest, 1985. p. 57.

⁹ *Status of World Nuclear Forces*. Federation of American Scientists. <http://www.fas.org/programs/ssp/nukes/nuclearweapons/nukestatus.html> (18 June 2013)

¹⁰ NPT Article IV.(1)

2. *Limits of the Treaty*

Even though the NPT is considered the cornerstone of nuclear non-proliferation, the treaty faces several challenges. Among these is the previously mentioned fact that the treaty does not give clear guidelines and a deadline for complete nuclear disarmament. However, the biggest challenge lies in the attitude of the international community. The NPT has to deal with States parties who do not fulfil their obligations, and states who are not even parties to the treaty. Furthermore, the discriminative nature of the non-proliferation and disarmament system and the weak results of the NPT review conferences have to be mentioned. How do these difficulties affect the non-proliferation system and the States parties to the NPT?

2.1. The uncertainties concerning States parties to the NPT

One of the most notable failures of the NPT is the uncertainty in relation to its States parties. Not only states not party to the treaty present a threat towards nuclear non-proliferation, but those states who are parties to the treaty but do not fulfil their obligations as well.

North Korea is an example: even though the country is not a State party to the treaty anymore, it used to be, and the treaty or the international community could not stop it from proceeding with its nuclear program. The state's nuclear ambitions date back decades. Suspicions of a North Korean nuclear program first arose in the 1980s, when the country built its second nuclear reactor at Yongbyon, a much larger reactor than the first one or than an average nuclear plant, and when other elements of a possible nuclear program started to show on satellite photos.¹¹ In these alarming circumstances, the international community managed to convince North Korea to sign the NPT, which it did in 1985 under international pressure. However, it soon became apparent that the state was not satisfied with the restraints the NPT imposed on its nuclear developments, therefore it threatened to withdraw from the treaty in 1993.¹² The crisis was averted then, but States parties to the NPT could not stop North Korea from leaving the treaty in the 21st century. The state withdrew in 2003, and conducted nuclear weapon tests in 2006, 2009 and 2013, leaving its situation one of the most difficult challenges the NPT members had to face to date.

At present, the biggest cause for concern is Iran, a state which is suspected of conducting a military nuclear program in the hope of developing a nuclear weapon. The Iranian nuclear crisis broke out around the time the North Korean one came to end with the latter state's withdrawal from the NPT. In 2002, the spokesman of the Iranian opposition group revealed that there was a uranium enrichment site in Natanz and a heavy water plant in Arak under construction.¹³ The statement was followed by outrage through the international community, since Iran, a State party to the NPT, has signed a Safeguards Agreement with the IAEA, but did not declare these facilities. This lack of

¹¹ MAZARR, MICHAEL J.: *North Korea and the Bomb: A Case Study in Nonproliferation*. New York, 1995. p. 36.

¹² MAZARR, 1995. p. 104.

¹³ PATRIKARAKOS, DAVID: *Nuclear Iran: The Birth of an Atomic State*. New York, 2012. p. 176.

transparency was the cause for concern which initiated a political tug of war that has not been resolved yet. According to the report of the Director General of the IAEA, the organization is highly concerned about a possible Iranian nuclear weapon program, the existence of which is corroborated by the 2011 report of the Director General.¹⁴ Even though Iran is denying the claims about its military nuclear ambitions, its situation is still unsettled, even after countless diplomatic negotiations and sanctions.

The problem is not only that these states do not comply with their international commitments, but also that they lessen the power and prestige of the NPT in the eyes of the international community. However, one could argue that this is not the fault of these states, but the fault of the NPT for not being able to stand up against these – from the point of view of nuclear non-proliferation – rogue states effectively. This might confirm the idea for some states that a possible nuclear weapons program would not result in unbearable consequences. Thus, the nuclear non-proliferation system lead by the NPT cannot deter all of the more than 180 non-nuclear weapon states from developing a military nuclear program.

2.2. States not parties to the treaty

Besides States parties to the treaty that supposedly have nuclear ambitions, another challenge the NPT has to face is the issue of states that are not parties to the treaty. There are three states that have still not signed the treaty (India, Israel and Pakistan), and one state (North Korea) that withdrew from it. What these states have in common is that they have either declared having, or are considered by the international community to have nuclear weapons. In case all States parties fulfil their obligations under the NPT and nuclear disarmament is also moving forward in a promising pace, the international nuclear non-proliferation system will still have to deal with these states not parties to the treaty.

The four states not party to the NPT have all moved on different paths to become a nuclear weapon state. India became a nuclear weapon state in 1974, and responding to its nuclear test explosions in 1998, Pakistan also conducted its first nuclear tests. North Korea has been mentioned in the previous category as well, since it was a signatory of the NPT, signing the treaty in 1985 under pressure from the international community. Even though the state withdrew from the NPT in 2003, its nuclear program can be traced back to the 1960s: this is why the international community urged North Korea to join the NPT, to be able to keep an eye on its nuclear ambitions.

Israel has a unique position concerning its nuclear weapons program. We do not know much about this program, since the state has not yet acknowledged owning nuclear weapons and an Israeli nuclear test explosion has not been detected yet either. However, the international community considers it an open secret, especially because there have been numerous leaks in the past that confirmed that Israel has a nuclear arsenal.¹⁵ It is noteworthy that the state planned to sign the NPT in the beginning of 1968,

¹⁴ *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran*. IAEA Document GOV/2013/27. p. 10.

¹⁵ COHEN, AVNER: *The Worst-Kept Secret. Israel's Bargain with the Bomb*. New York, 2010, p. 241.

however, it had concerns about the insufficient guarantees concerning a possible nuclear aggression towards NPT states with a non-nuclear weapon status.¹⁶ In the end, Israel decided not to sign the treaty, however, it never admitted owning nuclear weapons either.

Even though these four states are all considered to have nuclear weapons and are not parties to the NPT, we have to mention that India has a special place in the NPT system. India is not a signatory of the treaty, however, it takes part in international nuclear trade. This special situation is the result of an agreement between India and the United States, which was signed in 2005. The aim of the agreement is to facilitate cooperation between the two states with regards to nuclear issues, and to open nuclear trade between them. For them to be able to sign this agreement, India undertook to sign the Additional Protocol of the IAEA and to let the Agency inspect its peaceful nuclear development. Furthermore, the state accepted not to transfer the technology needed to develop nuclear weapons to states that do not have such weapons, and to continue its moratorium on nuclear weapon tests, thus contributing to nuclear non-proliferation.¹⁷ Not all states supported this special arrangement, however, the NPT does not contain a provision concerning the relationship between its States parties and other states.¹⁸ Therefore, India can enjoy the advantages that come from nuclear trade, without the IAEA inspecting its whole nuclear sector.

In light of these facts it becomes apparent that wiping nuclear weapons off the face of earth is not possible strictly within the framework of the NPT. Until there are states not party to the treaty who own nuclear weapons and are not leaning towards cooperation in nuclear non-proliferation and disarmament, reaching a global zero – a world free of nuclear weapons – is not feasible. Nevertheless the idea of complete nuclear disarmament keeps nuclear non-proliferation and disarmament efforts moving forward, thus its importance does not only lie in reaching the final goal, but also in paving the way towards it.

2.3. The issue of non-state actors

The non-proliferation framework does not only have to face the problems concerning states, but also has to deal with non-state actors. In the 21st century, terrorism has become international, which causes serious headache to the international community. Terrorist groups work with a different structure, different aims and different tools. A so called 'new terrorism' has developed, which can be characterized as follows: new terrorist groups work in a transnational manner, receive greater financing, their members get better training and they want to achieve new goals. Their aim is to eliminate a great number of – possibly civilian – victims. The structure of terrorist groups has also

¹⁶ COHEN, 2010. p. 75.

¹⁷ Communication dated 25 July 2008 received from the Permanent Mission of India concerning a document entitled "Implementation of the India-United States Joint Statement of July 18, 2005: India's Separation Plan". IAEA Information Circular 731. p. 4.

¹⁸ MICHEL, QUENTIN: *The Control of International Nuclear Trade – Difficult Balance Between Trade Development and Non-Proliferation of Nuclear Weapons*. In: *International Nuclear Law: History, Evolution and Outlook*. Nuclear Energy Agency (OECD), 2010. p. 302.

changed: they work in loose structures and do not rely on one leader or state, thus it is very difficult to infiltrate their organization or to even find them.¹⁹ The most dangerous characteristic of new terrorism is that instead of the previously used bombs, grenades and handheld weapons, terrorists also aim at acquiring weapons of mass destruction.²⁰ This can happen primarily because of the possibilities that have opened up through globalization and the revolution of information technology. Among different types of weapons of mass destruction, for terrorist groups, nuclear weapons are the hardest to acquire, unlike biological or chemical weapons. The thought of terrorists owning a nuclear weapon surfaced in the 1990s. There are documented cases of fissile material gone missing, which most likely ended up on the black market.²¹ For terrorist groups, this is the easiest way to get hold of a nuclear weapon, since it is quite expensive to acquire highly enriched uranium or plutonium in the quantity required to assemble a nuclear weapon. If a terrorist group could assemble such a weapon, it would be complicated to store or transport it undetected. It is much more likely that a terrorist organization detonates a so-called dirty bomb, which consists of traditional explosives mixed with radioactive material, which - after its explosion - emits nuclear radiation.²²

Even though nuclear terrorism has been regulated by more international documents up to now, like Resolutions 1373 and 1540 of the Security Council, the NPT's non-proliferation framework does not mention this issue. In fact, the NPT cannot mention it: since non-state actors cannot be parties to the treaty, their behavior cannot be regulated by it either. It could be the duty of States parties to cooperate in this matter, either outside of the NPT system, or with the help of the forum that the NPT provides for them (the Review Conferences for example). At the 2010 Review Conference of the NPT, the debate neglected the issue of non-state actors. The participating states accepted a Final Document, which encourages States parties to take national and international steps towards strengthening nuclear security, however, it does not mention nuclear terrorism or the question of non-state actors directly. The document contains an action plan which sets out that States parties shall fight the illicit trafficking of nuclear materials and encourages them to sign the International Convention for the Suppression of Acts of Nuclear Terrorism.²³ This is as far as the action plan goes with regards to non-state actors.

2.4. Limits of the NPT

A great disadvantage of the non-proliferation and disarmament framework that the NPT provides is that it cements an uneven system of relations between the States parties. According to the NPT, five states can officially possess nuclear weapons: those five states, that had acquired nuclear weapons before they signed the NPT. These states are the French Republic, the People's Republic of China, the Russian Federation, the

¹⁹ HOWARD, RUSSELL D., FOREST, JAMES J. F., BAJEMA, NATASHA: *Weapons of Mass Destruction and Terrorism*. Dubuque, 2008. p. 7.

²⁰ HOWARD, FOREST, BAJEMA, 2008. p. 10.

²¹ HOWARD, FOREST, BAJEMA, 2008. p. 67.

²² HOWARD, FOREST, BAJEMA, 2008. p. 65.

²³ *2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapon, Final Document* [NPT/CONF.2010/50 (Vol. I)], New York, 2010. p. 27.

United Kingdom of Great Britain and Northern Ireland and the United States of America, the five permanent members of the United Nations Security Council. These states have permanent representation in the Security Council and have the power to veto any substantive resolution. Basically they are not only first among equals in the council, but also in the international community, supported by their nuclear arsenals. Initiatives have surfaced not only to reform the Security Council, but to reform the NPT system as well.

The issue of the discriminatory nature of the NPT was a topic of debate at the 2010 Review Conference of the treaty as well. At the Review Conference, States parties reviewed the treaty and discussed future perspectives for nuclear non-proliferation, nuclear disarmament and the peaceful use of nuclear energy. The general mood of the review conferences is usually affected by the injustices of the NPT system, since the treaty is often viewed as discriminatory, especially by non-nuclear weapon states. Iran and Brazil were among the states who oppose the nature of the non-proliferation framework: namely the fact that it guarantees the possibility to own nuclear weapons to only a few states, while it does not guarantee it for others, dividing the world into two parts. According to the Brazilian delegate for example, the main problem is that this unjust situation is crowned by the composition of the Security Council, which strengthens the position and prestige of nuclear powers. As a solution, the country suggested the complete abolition of nuclear weapons, since – according to his views – this is the only way to reach an equilibrium in the international community.²⁴

The accepted Final Document emphasized the necessity of reaching the aims stated in the NPT, stressing the importance of nuclear non-proliferation and confirming the role of international organizations such as the IAEA, the United Nations General Assembly and the United Nations Security Council. Moreover, the document drew attention to the Additional Protocols of the NPT, and encouraged States parties to sign them. The participating states were able to agree on the fact that their final goal is complete nuclear disarmament, which requires states not party to the NPT to sign the treaty as well. After the failure of the 2005 Review Conference, it was considered a notable success that the participants of the 2010 meeting could reach a consensus and accept a final document despite their differences. However, the Final Document serves as nothing more than inspiration to States parties: it gives recommendations and draws attention to what should be done. However, states are not accountable for following the action plan or the recommendations of the Final Document, therefore the review conferences serve as forums for negotiation and dialogue rather than as an initial platform for action.

The next review conference of the NPT will be held in 2015, and until then, a Preparatory Committee has been set up to pave the way for cooperation at the actual conference.

²⁴ 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Summary Record of the Second Meeting* [NPT/CONF.2010/SR.2]. New York, 2010. p. 8.

3. Achievements of the treaty and additional non-proliferation initiatives

After examining the limits and deficiencies of the NPT, its achievements must be mentioned as well. The NPT is considered to be the cornerstone of nuclear non-proliferation, being the only global nuclear non-proliferation and disarmament treaty that incorporates almost the whole international community.

Among its achievements, we can list the fact that numerous states left their nuclear weapons programs to become part of the NPT framework. The NPT, together with diplomatic negotiations, led a number of states like Argentina, Brazil, South Africa, Sweden and Libya to abandon their nuclear developments. Belarus, Kazakhstan and Ukraine represent a special case since they inherited a number of nuclear warheads and ballistic missiles after the dissolution of the Soviet Union. The Lisbon Protocol of 1992 settled this situation: according to the protocol, Belarus, Kazakhstan, Ukraine and the Russian Federation all became NPT signatories, and Russia inherited the nuclear power status of the Soviet Union. Meanwhile, the other three post-Soviet states attached declarations to the protocol in which they announced their nuclear-weapon-free status and that they would eliminate all nuclear weapons from their territory. Thus they gave up their nuclear weapons to become signatories of the NPT.

Subsequently, we must not underestimate the role of the NPT in helping the international community reduce the number of nuclear powers. During the Cold War, theories emerged that there would be more than 20 states with nuclear arsenals by the end of the 20th century. The president of the United States, John F. Kennedy stated in an interview in 1963 that „by 1970 (...) there may be 10 nuclear powers instead of 4, and by 1975, 15 or 20.”²⁵ Fortunately, his prediction has not come true, and the number of nuclear powers remains under 10 states, 5 of which are States parties to the treaty.

Additionally, the NPT provides balance to the international community. If a world free of nuclear weapons was ever reached, keeping up the global zero would be extremely difficult. It would take exceptionally strict verification systems and an initiative from the whole international community to make sure that no states are trying to acquire nuclear weapons of any kind.²⁶ The problem with the new framework would be that non-state actors would still have a slight chance of creating a nuclear weapon with enough financial and intellectual resources and through the right networks. Furthermore, in the hypothetical world free of nuclear weapons, if one state could acquire a nuclear weapon, it would become superior to all other states. However, this situation is hypothetical and highly unlikely, since the NPT makes it much more difficult for states without a nuclear capability to acquire nuclear weapons or to acquire them without detection. The verification measures concerning the NPT are carried out by the IAEA, and they include on-site inspections and continuous monitoring of the States parties. Therefore, even if a non-nuclear weapon state would have the capability to acquire or construct a nuclear weapon, it would be very difficult for it to go on with the developments without the IAEA or the international community noticing.

²⁵ *The President's News Conference*, 1963. <http://www.presidency.ucsb.edu/ws/?pid=9124> (20 June 2013)

²⁶ THRANERT, OLIVER: *Would we really miss the Nuclear Non-proliferation Treaty?* *International Journal*, (63) 2008. p. 335.

In addition to the NPT and the IAEA, the Comprehensive Nuclear-Test-Ban Treaty Organization (hereinafter: CTBTO), after its entry into force will serve as a great obstacle for states trying to acquire nuclear weapons, monitoring nuclear test explosions with its International Monitoring System (IMS) and carrying out on-site inspections in its member states. At the moment, the CTBTO works within the framework of its Preparatory Commission, which is monitoring the world for nuclear explosions and testing the monitoring system before the treaty enters into force. The CTBTO Preparatory Commission is an initiative strengthening the international nuclear non-proliferation system and contributing to the aims of the NPT. Even if the treaty is not in force yet, the CTBTO can still help catch rogue states who have developed nuclear weapons and are in the testing phase, and can also detect when nuclear weapon states are further developing their nuclear arms with the help of nuclear explosions. Detection is key in these cases, since it is not only the CTBTO that can act when a nuclear test happens, but the whole international community, after they have become aware of the explosions. Therefore, the organization - even in its premature form - contributes to international security and nuclear non-proliferation.

When highlighting the positive, security assurances must be mentioned as well. In 1995, States parties to the NPT owning nuclear weapons issued statements of non-binding negative security assurances, which were supported by the Security Council as well, as seen from resolution 984. Issuing a negative security assurance means that the nuclear weapon state in question undertakes not to use nuclear weapons against non-nuclear weapon States parties to the NPT. These negative security assurances were made by nuclear powers who are members of the NPT: the French Republic, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America in the form of unilateral declarations. The predecessor of these declarations was General Assembly Resolution 21/53A in 1966, which stated that "nuclear weapons powers should give an assurance that they will not use, or threaten to use, nuclear weapons against non-nuclear weapons states without nuclear weapons on their territories."²⁷ Whether these declarations are legally binding or not, remains to be seen. In 1995, at the Review Conference of the NPT, states adopted a recommendation stating that further steps should be taken in the direction of an internationally legally binding instrument which would protect non-nuclear weapon states from the threat or use of nuclear weapons.²⁸ This recommendation can be seen as an indication that the unilateral declarations made by nuclear powers are not internationally legally binding yet. However, it could also be argued that the declarations have become part of customary international law, since it is a fact that nuclear weapons have not been used against non-nuclear weapon states (or any state for that matter) since the nuclear non-proliferation system of the NPT has been set up. Whether or not these declarations are legally binding, the most important factor concerning them is that they mean a step forward for the NPT, since they are encouraging non-proliferation. If non-nuclear weapon states do not have to worry about a nuclear attack, their motives to ac-

²⁷ UN General Assembly Resolution A/RES/2153(XXI)A. Preamble Clause 4.

²⁸ *Decision 2: Principles and Objectives for Nuclear Non-Proliferation and Disarmament* [NPT/CONF.1995/32 (Part I) Annex], p. 3.

quire a nuclear weapon will decrease significantly. Unfortunately, the five states that participated in making the aforementioned declarations are not the only states that can carry out a nuclear attack, and the four States not parties to the NPT have not signed such declarations yet.

In connection with negative security assurances, the issue of nuclear-weapon-free zones must be touched upon as well. In the case of nuclear-weapon-free zones, the existence of nuclear weapons is prohibited by an international treaty. Characteristics and responsibilities vary, but the United Nations General Assembly has given a general definition of a nuclear-weapon-free zone: resolution 3472 states that a nuclear-weapon-free zone is a zone where nuclear weapons are absent and an international system of verification and control is established to ensure compliance with the founding treaties.²⁹ As mentioned before, these are established by international treaties, and these treaties are supplemented by protocols. While the former lay down the responsibilities undertaken by States parties, the latter contain responsibilities for states that are not members of these zones. The protocols are important because a nuclear-weapon-free zone cannot fully guarantee nuclear-weapon-free status for its States parties if other states do not respect this decision. States parties do not only want to rid themselves of nuclear weapons, but also want to rule out the possibility of other states deploying or testing nuclear explosive devices in their territory. It must be noted that not only nuclear weapon states are connected to these protocols, but those states that have international responsibility for a territory within the region also are.³⁰ Even though the establishment of a nuclear-weapon-free zone is not bound by the recognition of nuclear weapon states, its effectiveness is questionable without it. The main problem is that nuclear-weapon-free zones can exist *de jure* without guarantees from nuclear weapon states, but do not work *de facto* without them.³¹ These guarantees are also considered to be security assurances, which are – just like nuclear-weapon-free zones themselves – supported by the NPT and have been commended at the Review Conferences of the treaty. In fact the NPT deems these zones so useful for nuclear non-proliferation and for international peace and security that it has been an advocate of the establishment of a nuclear-weapon-free zone in the Middle East for years.

It is apparent that even though the NPT is the cornerstone of nuclear non-proliferation, the non-proliferation system is supported by other treaties, organizations and initiatives as well. The cooperation between these and the NPT is not close in all cases, however, the NPT generally declares its support towards these initiatives (such as the CTBTO or nuclear-weapon-free zones) at its Review Conferences.

²⁹ *United Nations General Assembly Resolution 3472 (XXX): Comprehensive study of the question of nuclear-weapon-free zones in all its aspects*. New York, 11 December 1975. B. I. 1. (a),(b)

³⁰ RIEMAN, ARTHUR M: *Creating a Nuclear Free Zone Treaty That is True to its Name: The Nuclear Free Zone Concept and a Model Treaty*. *Denver Journal of International Law and Policy*, (18) 1990. p. 249.

³¹ *United Nations General Assembly: Comprehensive study of the question of nuclear-weapon-free zones in all its aspects*. Special report of the Conference of the Committee on Disarmament. A/10027/Add.1. New York, 1975. 61. p.

4. Conclusion

The Treaty on the Non-Proliferation of Nuclear Weapons is the basis of the international nuclear non-proliferation system, a so-called cornerstone, to which all other non-proliferation treaties and initiatives are connected. The NPT system has managed to keep the number of nuclear weapon states under ten, which can be considered a relative success in light of previous forecasts of 20 such states. The treaty plays an important role in maintaining this number, even if it could not stop every state with nuclear ambitions from developing such weapons.

However, the system set up by the treaty is not adequate to reach the final goal, a world free of nuclear weapons. Among the limits of the NPT, we can list the fact that it does not regulate the whole international community: four states are not parties to the treaty, and they all own nuclear arms. Moreover, States parties to the treaty do not always fulfil all of their obligations, causing hardships for the non-proliferation system. Furthermore, the NPT framework cements an uneven system of relations between States parties against which many of them protest: while it is legal for some states to own nuclear weapons, it is prohibited for others to do so. The complete cessation of nuclear weapons has been recommended as a solution, however, this aim is not realistic in the near future.

It can be concluded that the NPT plays an important role in regulating the nuclear goals of the international community, even if the system set up by the treaty is not perfect. The NPT and its Review Conferences provide an international forum for States parties to discuss nuclear-related issues, while the IAEA, the CTBTO Preparatory Commission and the nuclear-weapon-free zones contribute to verifying that states are not developing or have not developed nuclear weapons. There is a sort of security that the present international nuclear non-proliferation system provides for the international community, the main achievement of which is detecting when States parties - such as North Korea in the past or Iran in the present - try to delude the system. Even if the NPT system is not strong enough to stop rogue states from developing nuclear arms or withdrawing from the treaty, it works as an alarm that draws attention to States parties not playing by the rules.

LÁZÁR KATA NÓRA

A NUKLEÁRIS FEGYVEREK TERJEDÉSÉNEK
MEGAKADÁLYOZÁSA AZ ATOMSOROMPÓ EGYEZMÉNY
KERETEIN BELÜL: KORLÁTOK ÉS LEHETŐSÉGEK

(Összefoglalás)

A második világháború után általánosan elterjedt az a nézet, hogy a tömegpusztító fegyverek komoly veszélyt jelentenek a nemzetközi békére és biztonságra nézve. A hidegháború alatt ezért számos egyezményt fogadtak el az államok a nukleáris non-prolifерáció és leszerelés témakörében, amelyek között találhatunk bilaterális és multilaterális egyezményeket, illetve globális és regionális kezdeményezéseket is. Többek között ide sorolhatjuk a SALT-megállapodásokat, a Részleges és az Átfogó Atomcsend Egyezményt, illetve a nukleáris fegyvermentes övezeteket is.

A nemzetközi nukleáris non-prolifерációs rendszer igen kiterjedt és összetett, azonban kiemelhetünk egy jelentős egyezményt a kérdésben, az Atomsorompó Egyezményt, amelyet a mai napig a nemzetközi nukleáris non-prolifерációs rendszer sarokköveként emlegetnek. Melyek az egyezmény fő rendelkezései, és ezek hogyan formálják a non-prolifерációs rezsimet? Milyen korlátai vannak az Atomsorompó Egyezménynek, amelyek megakadályozzák, hogy valóban az egész világra kiterjedjen, és elérje a végső célt, az atomfegyverek teljes leszerelését? A tanulmány célja választ kapni ezen kérdésekre.